

IN THE HIGH COURT OF JUDICATURE AT BOMBAY,
APPELLATE SIDE, BENCH AT AURANGABAD

CRIMINAL WRIT PETITION NO. 153 OF 2016

Avinash Dhanurdharrao Kamkhedkar

PETITIONER

V E R S U S

The State of Maharashtra & Anr.

RESPONDENTS

Miss. Padnya S. Talekar, Advocate for the Petitioner
Mr. A.R. Borulkar, A.P.P. for the Respondents - State

**CORAM : A.V. NIRGUDE &
V.K JADHAV, JJ.**

DATE : 30th June, 2016

PER COURT :

1. Learned A.P.P. sought further time. Sufficient time has already been granted.
2. Heard.
3. The petitioner sought police protection to him and his family members at the places where all of them reside or visit. The petitioner is an Advocate. He visits various places in Maharashtra for his professional work. He also visited Jalna for his professional work where he received some threatening calls. So, he made report to Jalna police about such

threats. Police at Jalna then made enquiry and came to a conclusion that the petitioner is under serious threat, because of opponents of his clients. The Superintendent of Police, Jalna, issued a letter dated 29th January, 2016 providing 24 hours police protection to the petitioner and his family members. But, such protection was made limited only to the extent of District Jalna. The petitioner, thereafter, filed this petition apprehending that he and his family members are under serious threats and police should provide them police protection all over the State. He mentioned that he has been handling sensitive Court matters and public litigations.

4. The respondent filed an affidavit of one Dr.Sandip Bhajibhakare, Assistant General of Police, Law and Order, Mumbai and partly opposed the application. The deponent unequivocally admitted that the petitioner has threat perception and was entitled to police protection. But, the deponent stated that as per rules as well as circular dated 3rd January, 2000 and 24th January, 2008, since the petitioner sought police protection, he should be saddled with cost of police protection.

5. The question that arose for our consideration is, whether the petitioner is entitled to police protection free of costs. On perusal of the circulars, we found that the police on their own provide police protection to such persons, who according to the police, have threat or danger to their life. Such persons may not know that they are in such threat or danger. The police suo-moto provide him police protection and such protection is necessarily free of costs. If the person to whom such protection is given indicates that he does not want such protection, still the police would disregard his wish and provide protection to him. On the other hand, the

circulars mentioned that if a person seeks police protection on his own choice, such person is provided police protection at his cost subject to the verification of the police that such person needs such protection.

6. The facts of this case are rather peculiar. The petitioner never knew initially that he and his family members' life was in danger from unknown enemies. He came to know about this only after he received letter from the Superintendent of Police, Jalna. It is thereafter he felt threatened. He naturally felt that the protection given by Jalna Police was not sufficient for him because most of the time he and his family members do not reside within the local limits of Jalna District. He, therefore, demanded police protection by filing this petition. The Assistant General of Police, Mumbai, while opposing the application on one hand admitted that the petitioners life could be in danger and he deserved protection. He, however, opposed the petition on the point of cost of protection.

7. As said above, the police would not demand cost of protection if they independently come to a conclusion through intelligence report etc. that a person is in need of police protection. Such protection is given to him at free of costs. In this case, the Superintendent of Police, Jalna, opined unequivocally that the petitioner should be provided protection. even though at that time he did not demand it. The petitioner was not aware at that time that his life was in danger. In the background, the affidavit of Assistant General of Police does not appear to be in consonance with the opinion of other senior officer of police i.e. Superintendent of Police, Jalna. Such opinion cannot be brushed aside lightly. There is nothing on record to indicate through any intelligence

report or otherwise that the opinion expressed by the Superintendent of Police, Jalna was erroneous. There is nothing on record to indicate that the threat to the petitioner is absent outside the limits of Jalna district. The situation is not shown to have been changed during the pendency of the petition. In view of this, the opinion of the Superintendent of Police, Jalna should be taken seriously and even the Assistant General of Police should have agreed to provide suo-moto police protection to the petitioner free of costs.

8. We have therefore no doubt in our mind that the petitioner is entitled to police protection free of costs. However, we are not passing a blanket order. We direct the police to provide police protection free of costs to the petitioner and his family members across the State for a period of one year from today. The case shall then be referred to the Committee which is constituted as per the Government Resolution dated 3rd January, 2000 and an appropriate decision shall be taken thereafter. In case of difficulty, the petitioner is at liberty to approach this Court.

In view of above, writ petition stands allowed in terms of above directions and disposed of accordingly.

(V.K. JADHAV, J.)

(A.V. NIRGUDE, J.)